

THE DREYFUS AFFAIR FIFTY YEARS LATER

The Captain Who Became a Case

JAMES GROSSMAN

AT THE beginning of the First World War, Henry James wrote of France: "... she takes charge of those interests of man which most dispose him . . . to find and to make the earth a friendlier, an easier, and especially a more various sojourn." Yet the France of which James wrote with so much love was the Third Republic, whose political history was often unpleasant and sordid, full of cheap scandals. One president, Jules Grévy, had to resign because his son-in-law had sold appointments to the Legion of Honor. Another, Félix Faure, died in the presidential palace in the arms of his mistress. Over a hundred members of the National Assembly were bribed when the Panama Company made its last effort to raise more money for its hopeless venture, a sea-level canal through the Isthmus of Panama. Just before his public eulogy of France, James had expressed his private disgust with the Caillaux case ("what a family and what a trial"), in which the finance minister's wife, after murdering a journalist who had vilified her husband and herself, was triumphantly acquitted.

THE Dreyfus Case again—and still again. The facts are becoming clearer with the remove of time, as the latest book on the Affair, which JAMES GROSSMAN here discusses, makes evident. Mr. Grossman's New York law practice has not prevented him from winning distinction as a writer. He is the author of *James Fenimore Cooper*, in the American Men of Letters series, and of many magazine articles and reviews (*Kenyon Review*, *Partisan Review*, *the Nation*, among others). His last previous appearance in these pages was with "Lord Jowitt and the Case of Alger Hiss" in December 1953. Mr. Grossman was born in New York City and holds degrees from the College and the Law School of Columbia University.

While we are quick to see the Third Republic as the embodiment of everything that is unattractive in the bourgeoisie, we are slow to recognize how closely bourgeois vices are related to republican virtues, how the shabby or flamboyant actor in one scene is the hero of another. The Dreyfus Affair is full of such instances; the heroes of many of its finest moments are, if not quite the villains, the dubious characters in other episodes. Labori, who was Mme Caillaux's lawyer at her noisy trial in 1914, had defended Zola in the most dangerous days of the Dreyfus Case and had been shot at and wounded while acting as one of Dreyfus's lawyers at the second court-martial. Clemenceau, who published *J'Accuse*, Zola's fearless assertion of the truth about the Dreyfus Case, had a decade before been helped financially in his newspaper ventures by the worst of the Panamanians, the Jewish corruptionist and blackmailer, Cornelius Herz; when Baron Reinach, first Herz's employer and then his victim, tried just before killing himself to stop the revelations of the Panama scandal, it was Clemenceau who went with him on his last round of visits to Herz and others, appealing for the suppression of the truth. Loubet, the president who pardoned Dreyfus, had been one of the "Panama" ministers, at least to the extent of trying to delay the investigation. Where there was not a personal identity, there was a literal family relationship between vice and virtue: Scheurer-Kestner, the first politician to champion Dreyfus, had a corrupt "Panama" deputy for a son-in-law, and Joseph Reinach was the nephew and son-in-law of Baron Reinach, which is probably why anti-Dreyfusards said that he was the head of the "Jewish Syndicate" that was supposedly spending a fortune to free Dreyfus.

NICHOLAS HALASZ, in his excellent and moving history of the Dreyfus Affair,* has somewhat minimized the role played by anti-Semitism in the inception of the Affair. In part, this is a problem of proportion. Such a madness overtook France in 1898 and 1899 that if what happened at the beginning of the case in 1894 is to be rendered in scale, it must be made to seem sane, as indeed it superficially was.

There was after all a spy who had delivered documents to Schwartzkoppen, the German military attaché in Paris. The spy had been brazen enough to set forth the documents in an itemized list—the famous *bordereau*—that French counterespionage had stolen. From the nature of the documents it was a reasonable inference that the spy was on the General Staff; there was a possibility that he was one of the new appointees, for they had access to many departments; he might even be the same man as the “Scoundrel D—,” a minor spy mentioned in a letter from Schwartzkoppen to his colleague, the Italian attaché. But when in studying a list of officers the name Alfred Dreyfus was reached, and just from his Jewish name it was decided that the spy was found, the first step in madness had been taken.

It turned out that there was some resemblance between the handwriting in the *bordereau* and Dreyfus's. Although some handwriting experts refused to identify Dreyfus as the author, others, assured there was independent proof he was the spy, made the identification. It had been mad to suppose the spy was a well-to-do Jewish officer, in no need of the relatively small sums that selling documents brought, and with, in Theodor Herzl's words, “an almost pathological hunger for honor.” But the mad hypothesis, simply by being persisted in, had created evidence in its support.

At the court-martial the shaky evidence of the handwriting was bolstered by the positive if unsubstantiated statement of

Major Henry, an intelligence officer. He swore that he had been reliably informed by one he could not name that Dreyfus was a spy. Unknown to the defense, the judges received from the minister of war the “Scoundrel D—” letter and other documents not related to Dreyfus, together with a written argument by the minister that they proved Dreyfus's guilt. The judges were probably unaware that they were seriously violating the defendant's most elementary right, the right to know the evidence against him so that he might answer it. Lay judges are tempted to go outside the record, to find the facts free from the bedeviling of the lawyers. To these officers who served as judges it must have appeared eminently sensible to be doubly relieved of the responsibility of judging—on the one hand, by the intelligence officer whose duty it was to know the facts, on the other by their superior's expression of his opinion.

The trial had been secret, so secret that Dreyfus's lawyer was not allowed to tell even his client's family what the evidence was. This was a reasonable precaution if a quarrel with Germany was to be avoided. It had the effect as well of making the verdict of guilty acceptable to the world, for, as no one knew what it was based on, no one could say a word against it. In place of facts, newspapers were filled with rumors which all pointed to a horrible guilt that made the sentence, life imprisonment on Devil's Island, seem mild.

In March 1896 counterespionage brought to the new head of Intelligence, Lieutenant Colonel Picquart, an oddly worded express letter—the *petit bleu*. It was written to a French officer, Major Esterhazy, by the German military attaché. A look at Esterhazy's record showed him to be a suspicious character, a battalion commander who gambled in the stock market, engaged in shady operations, and was in debt. In June a French agent in Berlin reported that a battalion commander had been selling military documents to the Germans. At almost this very time Esterhazy betrayed himself. He applied for an assignment on the General

**Captain Dreyfus—the Story of a Mass Hysteria* (Simon and Schuster, 274 pp., \$3.50).

Staff, and his letters were referred to Picquart. A familiarity about the writing made Picquart send for the *bordereau*. It was at once obvious to him that the handwriting in the *bordereau* and in Esterhazy's letters was identical.

Picquart examined the Dreyfus file. To his surprise, the evidence in the secret dossier did not incriminate Dreyfus and, since the *bordereau* was not by Dreyfus, there was no evidence left against him. From the fact that there was no evidence against Dreyfus, Picquart came to a conclusion that seems absurdly simple to us, that perhaps seemed absurdly simple to him, but that in fact is one of the admirable achievements of the human mind—he decided that Dreyfus was innocent. Picquart was anti-Semitic, disliked Dreyfus, had been an official observer at the court-martial, and had believed him guilty. But he respected a fact, and no prejudice could stand in the way of its logical operation. Many men of genuinely liberal beliefs were helped to the truth about Dreyfus by their prejudices. Picquart is one of the few men who came to the truth in spite of his prejudice, and once he came to it he never swerved from it.

GENERAL GONSE, to whom Picquart reported his discovery, was annoyed by it. The Dreyfus case, he said, was closed and could not be reopened merely because the Jew was innocent. The truth, for a good soldier, was what his superiors said it was. This doctrine of military convenience was to be echoed in France by the anti-Dreyfusards in the more elegant form of a doctrine of judicial convenience, *chose jugée*—once a matter has been finally adjudicated, it cannot be litigated again. In either form, the doctrine that the punishment of an innocent man had to continue was abominable to Picquart. He was too good a soldier to go over his superiors' heads and tell his secret, but too good a man to keep his secret wholly to himself. He wrote out an account to be used if he died, and told his lawyer about it.

After Picquart's discovery that nothing in the Dreyfus file pointed to Dreyfus, Major

Henry undertook to remedy the fault by forgery. In helping his own spies give seemingly important information to the Germans and in thwarting German spies, Henry had apparently acquired considerable experience in faking documents. Forgery for him was probably what lying is for ordinary men. Fragments of innocent letters from the Italian to the German military attaché were put together with interpolations to create a guilty correspondence about the employment of Dreyfus. There were now in Dreyfus's file (and known to the chief of staff and the War Department) documents clearly incriminating Dreyfus by name as a spy. Their lack of plausibility was a small price to pay for their complete clarity; in the arena of political discussion into which the Dreyfus case was moving, it was simple proof pointing unmistakably at Dreyfus that was wanted. How well Henry understood the literary needs of his business is shown by his forgeries against Picquart. Creating these for a small professional audience, Henry forged letters that were vague and incomprehensible but which suggested that Picquart, who had been sent to Tunisia to be kept out of the way, was carrying on some sort of conspiracy with the Dreyfus defenders. The most brilliant stroke against Picquart was to erase the name Esterhazy from the *petit bleu* and write it in again in a different hand, so that it would look as if first addressed to someone else but altered to make Esterhazy seem the addressee.

With the forged file in such good shape, the *bordereau* was no longer necessary, and got in the way of the case against Dreyfus when a Paris newspaper published a photograph of it. Though it could not be suppressed, Henry surrounded it with mystery by inventing this story: the *bordereau* that had been received at the German embassy set forth the price of each item, and had been sent on to the Kaiser, who sent it back to the embassy with an annotation made in his own hand: "This scoundrel of a Dreyfus is becoming very demanding. . . ." After the French stole the *bordereau* from the embassy they were forced to return it to avoid war, but photographs had been taken of it; also,

Esterhazy had made a copy, the *bordereau* used at the trial, which left out the prices and the annotation. By this story both the seeming guilt of Esterhazy and the unwillingness to discuss the *bordereau* used at the trial were explained away. The annotated *bordereau* was so dangerous that no one could expect to see it published, or even its existence clearly affirmed. Men swore that they knew others who had seen the memorandum, but no responsible person, I believe, ever swore to seeing it himself.

While rumors circulated about the annotated *bordereau*, Dreyfus's brother Mathieu, by distributing copies of the real *bordereau*, learned from unimpeachable sources that the handwriting was Esterhazy's, and in November 1897 publicly accused him of being the spy.

There was if anything too much evidence against the disreputable, impecunious Esterhazy. He had written the *bordereau* in his own undisguised hand; he had gone off on maneuvers just when the author of the *bordereau* said he was going (so that he was clearly the author and not a mere copyist); a member of an old Hungarian family, he did not regard himself as a Frenchman but hated the French extravagantly and wrote extravagantly to his mistress of his hatred. In his dishonesty, his desire to get money by any means, his own sense of his foreignness, his hatred of the French, he was almost everything anti-Semites thought a Jew was, except that he was not a Jew. He was tried by court-martial and unanimously acquitted.

IMMEDIATELY, Zola wrote *J'Accuse*, a bitter attack by name on those in high places who had first had Dreyfus unjustly convicted and then for more than three years had defended their work "by the most absurd and culpable machinations," suppressing decisive proof of Dreyfus's innocence, using lying and fraudulent reports, conducting a vile campaign in the press, and now knowingly acquitting a guilty man in order to cover up the violations of law by which an innocent one had been condemned.

There is a saying that justice should be

done though the heavens fall. This is usually an unlikely contingency, but Zola treated it as an absolute necessity; if there was to be justice the heavens had to fall. "Dreyfus cannot be vindicated unless the whole General Staff is indicted. . . ." The outside world hailed Zola's high moral stand, but most Frenchmen, despite the large sale of *J'Accuse*, disagreed. They took their stand decisively for the General Staff and against justice. Riots broke out in many cities, Jewish stores were looted. Zola was convicted of the crime of libel, and in Clemenceau's opinion this was fortunate, for the crowds in the courtroom were full of such hatred that had there been an acquittal Zola and his friends would not have come out alive. The premier of France proclaimed to an enthusiastic Chamber that the Jews had brought down on themselves a century of intolerance.

In the next cabinet the new minister of war, Cavaignac, like all of his predecessors, believed in Dreyfus's guilt but, unlike them, was certain that the facts should be brought into the light of day so that the Jewish "syndicate" supporting Dreyfus would be forever silenced. Interestingly, every bit of proof cited by Cavaignac had been discovered after Dreyfus's conviction. More important, Picquart, who had been arrested after testifying at Esterhazy's trial and dismissed from the service after testifying for Zola, wrote to the premier that of the three documents cited, two did not relate to Dreyfus and the one that did was a forgery. The minister of war had Picquart arrested again and then had the questioned document, the letter from the Italian to the German military attaché, examined. When held up to the light, the fragments showed that they came from two different kinds of paper. Henry, unable to explain this discrepancy, broke down and confessed orally that it was a forgery. The next day, August 31, 1898, he killed himself in military prison, leaving a note asserting his innocence. The words he used, however, as Hazlitt said of another celebrated criminal's defense, "prove that he was guilty of the act, as much as they prove that he was unconscious of the crime."

The minister of war and the chief of staff resigned. For the moment most of the anti-Dreyfusards were shaken. But they soon rallied to assert that Henry had been compelled to forge either in order to offset Picquart's forgery of the *petit bleu*, or because he could not use the annotated *bordereau* and had to use a moral equivalent. They were too late. The government had already entertained an appeal from the Dreyfus family and sent it to the Court of Cassation for its consideration. The Dreyfus case was at last in a civilian court.

While the court was holding hearings, Esterhazy in London gave out the first of several versions of his spying: at the suggestion of a French Chief of Intelligence now dead, he had sold unimportant documents and garbled information to the Germans to mislead them and to learn their secrets. Counterspying at the instance of a dead man has become a classic explanation on behalf of spies.

IN JUNE 1899 the court set aside the judgment against Dreyfus, finding that the "Scoundrel D—" in the papers illegally submitted to the court-martial was not Dreyfus and that Esterhazy had written the *bordereau*. This might have ended the case, but a new court-martial was ordered, for Dreyfus insisted, as his lawyer put it, that he was entitled to have his honor returned to him by his brothers-in-arms who had deprived him of it. When this request was made, Dreyfus in his Guiana prison had heard very little of the world-famous Affair that bore his name and that was tearing France apart. For years his wife had not been allowed to mention it in her letters to him. He did not know that when President Félix Faure, an anti-Dreyfusard, had died and the mildly Dreyfusard Loubet had been elected, so unpopular was any supporter of Dreyfus that crowds had greeted the new president with cries of "Panama! Resign!" and a *coup d'état* had been attempted which high army officers had at first considered joining. Dreyfus's faith in his brother officers has something of the pathos of the hero in Charlie

Chaplin's *Great Dictator*, who had been in an insane asylum while his country went mad in its own way and who, on his release, knows no better than to turn to the fascist police for protection against oppression.

Much odder than Dreyfus's understandable ignorance was the Dreyfusards' own expectation, after they had educated the country to think of Dreyfus's innocence as a synonym for the army's guilt, that a court composed of army officers would acquit him. In September 1899 the court-martial, held at Rennes, found Dreyfus guilty of high treason, but with extenuating circumstances.

Dreyfus appealed to the Court of Military Appeal, which could review only the legal procedure and would not consider the sufficiency of the evidence. Before he could appeal to the Court of Cassation and obtain a review of the whole case, he would have to discover new evidence. The government immediately offered him a pardon. He accepted, withdrawing his pending appeal, but asserting his innocence and reserving his right to appeal to the Court of Cassation when he found new evidence. To anti-Dreyfusards and unfortunately to some Dreyfusards, too, accepting a pardon meant admitting guilt.

In the next year the government voted a general amnesty for everyone else involved in the case, treating the innocent like the guilty and letting the guilty escape. The amnesty might not have been voted if Dreyfus had not accepted the pardon, so the stricter Dreyfusards felt that Dreyfus had betrayed the Dreyfus case. It is to the bitterness of this period that we owe the harsh things that Dreyfus's supporters have said against him which it is still fashionable to repeat. To Clemenceau, he was the one man who did not understand the Dreyfus case; to Léon Blum, if he hadn't been Dreyfus he wouldn't even have been a Dreyfusard; to Labori, he was no longer "a man bearing the common bondage of humanity. . . ."

He had been the Dreyfus case so long that it seemed a fault in him to want to be something else, himself. Imprisoned on Devil's Island, double-chained as he had been once for more than forty nights, he

had been a perfect symbol of injustice; this moral grandeur he had thrown away merely to be free.

Of course, he had no choice; he had to lose his stature as a symbol and become again a man. There would have been a morbidity in seeking further imprisonment by refusing the pardon. Like the strict Dreyfusards, we still ask unfairly of the victim of injustice that he become a martyr and seek injustice as his lot. The supposedly stupid Dreyfus understood his position clearly; when, after the Affair was over, the president of the League of the Rights of Man spoke to him of his historic role, he answered; "No, no. I was only an artillery officer prevented by a tragic error from following my career. Dreyfus, the figurehead of justice, was not I. He was created by you."

DREYFUS became as well the figurehead of a great political change in which he took no part. The "Dreyfusian Revolution" is the name given to the anti-clerical and related legislation of the early years of our century—the separation of church and state, the suppression of the religious orders, the furthering of state control over education. In its effort to make the army loyal to the Republic, the first thoroughly Dreyfusard Ministry of War resorted to spying. Reports on the loyalty of officers were gathered by local Masonic lodges and forwarded to Captain Molin in the War Department, son-in-law of the distinguished Dreyfusard Anatole France.

It was this Ministry of War that, by examining its files and discovering still more forgeries by Henry, helped Dreyfus in 1903 win the right to appeal to the Court of Cassation. As Dreyfus was already a free man, the legal proceedings went slowly and attracted little attention. In July 1906 the court set aside the judgment of the Rennes court-martial, finding that there was no credible evidence against Dreyfus and no need for another trial. Dreyfus and Picquart were reinstated as army officers, and Picquart became minister of war in the Clemenceau cabinet. Clemenceau had meant to improve military courts, but a series of violent strikes accom-

panied by mutinies made it seem inadvisable to undertake radical reforms. His government became convinced, as the anti-Dreyfusards had been, that the need for order outweighed the need for justice.

It seemed good sense for the Court of Cassation to end the Affair rather than order a new court-martial, which might have resulted in another conviction and another appeal. Rebecca West and Hannah Arendt, both passionately devoted to justice through law, have claimed that, although Dreyfus was obviously innocent, the court's decision was illegal. To most believers in Dreyfus's innocence, however, it has seemed that if the court strained its jurisdiction in order to end the Affair, this is at the most a technicality not affecting the justice of the decision.

In the course of the Affair, when the anti-Dreyfusards were still triumphant, it had been *their* claim that the proceedings had been substantially just and that the objections to them were technicalities. They had condoned the illegal submission of papers to the first court-martial; documents that turned out to be forgeries still expressed, they claimed, the essential truth that Dreyfus was a spy. They had gone on to assert what had actually been relied on but what responsible men had not dared to say: that his being Jewish was itself evidence of his spying. As *Civiltà Cattolica*, the organ of the Jesuits in Rome put it, "The Jew was created by God to serve as a spy wherever treason is in preparation." The final step was to find that Dreyfus was guilty whether or not he had been a spy. The nationalist newspaper *Gaulois* said, "Even if he did not commit the treason for which he was twice condemned, does he not remain, in the eyes of all, the initial cause of the terrible social and political disorganization which we now witness?"

With this final step, as so often happens in the world of practical affairs, we are in the dream world of Kafka—in those legal proceedings of *The Trial* which start by assuming that K. is guilty and are never concerned with what he is guilty of; in the world of *The Castle*, where to be the victim of injustice is a grave sin. Kafka's subject, of

course, is much larger than the Dreyfus case or any satire on the administration of justice: his concern is with that frame-up in the very nature of things which makes us all guilty, all sinful. But the Jewish novelist will help us understand this much about the Affair: anti-Semites deal in truths about all men as if they were truths only about Jews; anti-Semitism which has not a grain of truth about Jews as Jews is plausible because it has a universe of truth about everyone.

THE destruction of six million Jews has made it difficult for us to feel again the indignant horror which men once felt about the effort to destroy Alfred Dreyfus. We are impressed today not by the fact that the effort was made, but that it failed. We are perhaps too easily won over to Hannah Arendt's gloomy thesis in her brilliant *Origins of Totalitarianism*: that this vast concern with justice for one individual belonged to the 19th century, to the dying world of the rights of man; the mobs, the anti-Semitic leagues, the attempted *coup d'état*, were portents of the 20th century, of the totalitarian world struggling to be born.

And yet, although only one man's freedom was involved, there is an aspect of the Dreyfus case which seriously challenges that practical optimism we find so convenient in our daily lives. While we cheerfully admit the chances of error, we do not base our ordinary calculations on the prevalence of evil. If we knew nothing of the facts, we would think it much more likely that one officer was a traitor than that half a dozen would deliberately invent or avail themselves of lies, frauds, and forgeries to conceal his innocence. The Dreyfus case has a scale of willful wrong which it is frightening to find in civilized judicial proceedings. The Affair shows, I believe, just where our arithmetic of evil goes astray: we are right in believing that in ordinary affairs men are not likely to be wicked on a large scale for wickedness' sake; we are wrong in not realizing how wicked and how cooperative in their wickedness they can be in the name of some higher good—in this case, the good of the army,

the good of the law, the good of France.

When men argue guilt and innocence hotly, particularly in cases that arouse political passions, the Dreyfus case is cited as an instance of how evidence can make an innocent man seem guilty. Actually, the evidence against Dreyfus was not strong; it could not withstand scrutiny. The great struggle was to discover what the evidence was and to get the case before a civilian court where it would be examined impartially. It is one of Mr. Halasz's virtues, in his remarkable condensation of the whole complex and lengthy history of the case, that he presents it above all as a triumph of reason.

This is not to say that it was a mild reasonableness that won or could win. It is a paradox of public struggles for enlightenment that they have to be carried on with a passion so intense, an enthusiasm for perfect victory so doctrinaire as to approach the borders of unreason itself. The victory that the passion and enthusiasm of the Dreyfusards helped bring about was a triumph, not of public opinion, but of institutions that could withstand the public. Juries, the most democratic of our legal institutions, were against the man. Dreyfus was freed by a small group of professional judges, an independent judiciary. But before these judges could act the right to appeal had to be granted Dreyfus by the government, that is, by the politicians. Professional politicians, however slow and hesitant in their support, were more for Dreyfus than were their constituents. This support, as the Dreyfusian Revolution shows, was motivated by political and to some extent by selfish interests. The Dreyfus case was bedeviled by politics as, say, the Sacco-Vanzetti case never was; but, as has often been observed, it was Dreyfus who was freed. There is something glorious in men like Picquart and in an attack like Zola's. Yet perhaps the most comforting aspect of the Affair today is not the role of the glorious, who may never come again, but the realization of how much Dreyfus owed to some of the despised, shabby politicians of the Third Republic, to the inglorious who are always with us.